

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MCGOWEN PRECISION BARRELS, LLC,

Plaintiff

v.

PROOF RESEARCH, INC.,

Defendant

Civil Action No. 5:20-cv-1068

APPLICATION FOR SUBPOENA UNDER 35 U.S.C. § 24

May It Please the Court:

This is an application for a subpoena and subpoena duces tecum, pursuant to 35 U.S.C. § 24.

1. The subpoenas are requested in relation to a Cancellation proceeding before the Trademark Trial and Appeal Board of the United States Patent and Trademark Office, namely Proceeding No. 92067618. The coversheet for the Petition to Cancel Registration No. 4,390,533 is attached as **Exhibit A** and provided pursuant to 15 U.S.C. § 1116(c).
2. The Cancellation proceeding has been brought pursuant to 35 U.S.C. § 1064, and is a contested matter. Applicant is the petitioner in the Cancellation proceeding.
3. The person to whom the subpoenas are directed, namely, Dale Robinson, voluntarily submitted a declaration in the Cancellation proceeding on behalf of the Registrant.
4. An adverse party is entitled to conduct oral cross-examination of a declarant, upon proper notice. 37 CFR § 2.123(a),(c). Petitioner's Notice of Election of Oral Cross-Examination was timely filed. A copy of the Notice is attached hereto as **Exhibit B**.
5. We have consulted with Defendant's counsel, Ms. Antoinette Tease, and she is available on the proposed deposition date. The applied for subpoena commands the appearance of Dale Robinson on September 18, 2020 for 10:00 a.m. CDT, via videoconference.
6. The documents subject to the subpoena duces tecum are to be produced by September 15, 2020 via e-mail to the court reporter engaged for this deposition at cs-awr@veritext.com.

Date: September 9, 2020.

Respectfully submitted,

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